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18 ADRISE INC.

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA

21 PETER RODGERS ORGANIZATION,  
LTD.,

22 Case No. 2:15-cv-04381-  
PSG(PJWx)

23 Plaintiff,

24 v.

25 ADRISE INC.,

26 **STIPULATED PROTECTIVE  
ORDER REGARDING  
DISCLOSURE AND USE OF  
DISCOVERY MATERIALS**

27 Defendant.

28 **AND RELATED COUNTER-ACTION**

29 1. **PURPOSES AND LIMITATIONS**

30 Disclosure and discovery activity in this action are likely to involve  
31 production of confidential, proprietary, or private information for which special  
32 protection from public disclosure and from use for any purpose other than  
33 prosecuting this litigation may be warranted. Accordingly, the parties hereby  
34 stipulate to and petition the court to enter the following Stipulated Protective Order.  
35

1       The parties acknowledge that this Order does not confer blanket protections on all  
 2 disclosures or responses to discovery and that the protection it affords from public  
 3 disclosure and use extends only to the limited information or items that are entitled  
 4 to confidential treatment under the applicable legal principles. The parties further  
 5 acknowledge, as set forth in Section 14.3, below, that this Stipulated Protective  
 6 Order does not entitle them to file confidential information under seal; Civil Local  
 7 Rule 79-5 sets forth the procedures that must be followed and the standards that will  
 8 be applied when a party seeks permission from the court to file material under seal.

9       2. **DEFINITIONS**

10      2.1 **Challenging Party:** A Party or Non-Party that challenges the  
 11 designation of information or items under this Order.

12      2.2 **“CONFIDENTIAL” Information or Items:** Information (regardless of  
 13 how it is generated, stored or maintained) or tangible things that qualify for  
 14 protection under Federal Rule of Civil Procedure 26(c).

15      2.3 **Counsel (without qualifier):** Outside Counsel of Record (as well as  
 16 their support staff).

17      2.5 **Designating Party:** A Party or Non-Party that designates information or  
 18 items that it produces in disclosures or in responses to discovery as  
 19 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
 20 ONLY.”

21      2.6 **Disclosure or Discovery Material:** All items or information, regardless  
 22 of the medium or manner in which it is generated, stored, or maintained (including,  
 23 among other things, testimony, transcripts, and tangible things), that are produced or  
 24 generated in disclosures or responses to discovery in this matter.

25      2.7 **Expert:** A person with specialized knowledge or experience in a matter  
 26 pertinent to the litigation who (1) has been retained by a Party or its counsel to serve  
 27 as an expert witness or as a consultant in this action, (2) is not a past or current

1 employee of a Party or of a Party's competitor, and (3) at the time of retention, is not  
2 anticipated to become an employee of a Party or of a Party's competitor.

3       2.8    HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY

4       Information or Items: Extremely sensitive "Confidential Information or Items,"  
5 disclosure of which to another Party or Non-Party would create a substantial risk of  
6 serious harm that could not be avoided by less restrictive means.

7       2.11   Non-Party: Any natural person, partnership, corporation, association, or  
8 other legal entity not named as a Party to this action.

9       2.12   Outside Counsel of Record: Attorneys who are not employees of a  
10 party to this action but are retained to represent or advise a party to this action and  
11 have appeared in this action on behalf of that party or are affiliated with a law firm  
12 which has appeared on behalf of that party.

13       2.13   Party: Any party to this action, including all of its officers, directors,  
14 employees, consultants, retained experts, and Outside Counsel of Record (and their  
15 support staffs).

16       2.14   Producing Party: A Party or Non-Party that produces Disclosure or  
17 Discovery Material in this action.

18       2.15   Professional Vendors: Persons or entities that provide litigation support  
19 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
20 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
21 and their employees and subcontractors.

22       2.16   Protected Material: Any Disclosure or Discovery Material that is  
23 designated as "CONFIDENTIAL," or as "HIGHLY CONFIDENTIAL –  
24 ATTORNEYS' EYES ONLY."

25       2.17   Receiving Party: A Party that receives Disclosure or Discovery  
26 Material from a Producing Party.

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1       3.     SCOPE

2              The protections conferred by this Stipulation and Order cover not only  
3 Protected Material (as defined above), but also (1) any information copied or  
4 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
5 compilations of Protected Material; and (3) any testimony, conversations, or  
6 presentations by Parties or their Counsel that might reveal Protected Material.  
7 However, the protections conferred by this Stipulation and Order do not cover the  
8 following information: (a) any information that is in the public domain at the time of  
9 disclosure to a Receiving Party or becomes part of the public domain after its  
10 disclosure to a Receiving Party as a result of publication not involving a violation of  
11 this Order, including becoming part of the public record through trial or otherwise;  
12 and (b) any information known to the Receiving Party prior to the disclosure or  
13 obtained by the Receiving Party after the disclosure from a source who obtained the  
14 information lawfully and under no obligation of confidentiality to the Designating  
15 Party. Any use of Protected Material at trial shall be governed by a separate  
16 agreement or order.

17       4.     DURATION

18              Even after final disposition of this litigation, the confidentiality obligations  
19 imposed by this Order shall remain in effect until a Designating Party agrees  
20 otherwise in writing or a court order otherwise directs. Final disposition shall be  
21 deemed to be the later of (1) dismissal of all claims and defenses in this action, with  
22 or without prejudice; and (2) final judgment herein after the completion and  
23 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,  
24 including the time limits for filing any motions or applications for extension of time  
pursuant to applicable law.

25       5.     DESIGNATING PROTECTED MATERIAL

26            5.1     Exercise of Restraint and Care in Designating Material for Protection.

27              Each Party or Non-Party that designates information or items for protection under  
28

1 this Order must take care to limit any such designation to specific material that  
 2 qualifies under the appropriate standards. To the extent it is practical to do so, the  
 3 Designating Party must designate for protection only those parts of material,  
 4 documents, items, or oral or written communications that qualify – so that other  
 5 portions of the material, documents, items, or communications for which protection  
 6 is not warranted are not swept unjustifiably within the ambit of this Order. Mass,  
 7 indiscriminate, or routinized designations are prohibited. Designations that are  
 8 shown to be clearly unjustified or that have been made for an improper purpose (e.g.,  
 9 to unnecessarily encumber or retard the case development process or to impose  
 10 unnecessary expenses and burdens on other parties) expose the Designating Party to  
 11 sanctions. If it comes to a Designating Party's attention that information or items  
 12 that it designated for protection do not qualify for protection at all or do not qualify  
 13 for the level of protection initially asserted, that Designating Party must promptly  
 14 notify all other parties that it is withdrawing the mistaken designation.

15       5.2 Manner and Timing of Designations. Except as otherwise provided in  
 16 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise  
 17 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
 18 under this Order must be clearly so designated before the material is disclosed or  
 19 produced. Designation in conformity with this Order requires:

20           (a) For information in documentary form (e.g., paper or electronic  
 21 documents, but excluding transcripts of depositions or other pretrial or trial  
 22 proceedings), that the Producing Party affix the legend “CONFIDENTIAL” or  
 23 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to each page that  
 24 contains protected material. If only a portion or portions of the material on a page  
 25 qualifies for protection, the Producing Party also must clearly identify the protected  
 26 portion(s) (e.g., by making appropriate markings in the margins) and must specify,  
 27 for each portion, the level of protection being asserted. A Party or Non-Party that  
 28 makes original documents or materials available for inspection need not designate

them for protection until after the inspecting Party has indicated which material it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the appropriate legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" to each page that contains Protected Material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each portion, the level of protection being asserted.

(b) For testimony given in deposition or in other pretrial or trial proceedings, that the Designating Party identify on the record, before the close of the deposition, hearing, or other proceeding, all protected testimony and specify the level of protection being asserted. When it is impractical to identify separately each portion of testimony that is entitled to protection and it appears that substantial portions of the testimony may qualify for protection, the Designating Party may invoke on the record (before the deposition, hearing, or other proceeding is concluded) a right to have up to 21 days to identify the specific portions of the testimony as to which protection is sought and to specify the level of protection being asserted. Only those portions of the testimony that are appropriately designated for protection within the 21 days shall be covered by the provisions of this Stipulated Protective Order. Alternatively, a Designating Party may specify, at the deposition or up to 21 days afterwards if that period is properly invoked, that the entire transcript shall be treated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

1           Parties shall give the other parties notice if they reasonably expect a  
 2 deposition, hearing or other proceeding to include Protected Material so that the  
 3 other parties can ensure that only authorized individuals who have signed the  
 4 “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at those  
 5 proceedings. The use of a document as an exhibit at a deposition shall not in any  
 6 way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
 7 ATTORNEYS’ EYES ONLY.”

8           Transcripts containing Protected Material shall have an obvious legend on the  
 9 title page that the transcript contains Protected Material, and the title page shall be  
 10 followed by a list of all pages (including line numbers as appropriate) that have been  
 11 designated as Protected Material and the level of protection being asserted by the  
 12 Designating Party. The Designating Party shall inform the court reporter of these  
 13 requirements. Any transcript that is prepared before the expiration of a 21-day  
 14 period for designation shall be treated during that period as if it had been designated  
 15 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless  
 16 otherwise agreed. After the expiration of that period, the transcript shall be treated  
 17 only as actually designated.

18           (c) For information produced in some form other than documentary  
 19 and for any other tangible items, that the Producing Party affix in a prominent place  
 20 on the exterior of the container or containers in which the information or item is  
 21 stored the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
 22 ATTORNEYS’ EYES ONLY. If only a portion or portions of the information or  
 23 item warrant protection, the Producing Party, to the extent practicable, shall identify  
 24 the protected portion(s) and specify the level of protection being asserted.

25           5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
 26 failure to designate qualified information or items does not, standing alone, waive  
 27 the Designating Party’s right to secure protection under this Order for such material.  
 28 Upon timely correction of a designation, the Receiving Party must make reasonable

1 efforts to assure that the material is treated in accordance with the provisions of this  
2 Order.

3       6. **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

4       6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
5 designation of confidentiality at any time. Unless a prompt challenge to a  
6 Designating Party's confidentiality designation is necessary to avoid foreseeable,  
7 substantial unfairness, unnecessary economic burdens, or a significant disruption or  
8 delay of the litigation, a Party does not waive its right to challenge a confidentiality  
9 designation by electing not to mount a challenge promptly after the original  
10 designation is disclosed.

11       6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
12 resolution process by providing written notice of each designation it is challenging  
13 and describing the basis for each challenge. To avoid ambiguity as to whether a  
14 challenge has been made, the written notice must recite that the challenge to  
15 confidentiality is being made in accordance with this specific paragraph of the  
16 Protective Order. The parties shall attempt to resolve each challenge in good faith  
17 and must begin the process by conferring directly (in voice to voice dialogue; other  
18 forms of communication are not sufficient) within 14 days of the date of service of  
19 notice. In conferring, the Challenging Party must explain the basis for its belief that  
20 the confidentiality designation was not proper and must give the Designating Party  
21 an opportunity to review the designated material, to reconsider the circumstances,  
22 and, if no change in designation is offered, to explain the basis for the chosen  
23 designation. A Challenging Party may proceed to the next stage of the challenge  
24 process only if it has engaged in this meet and confer process first or establishes that  
25 the Designating Party is unwilling to participate in the meet and confer process in a  
26 timely manner.

27       6.3 Judicial Intervention. If the Parties cannot resolve a challenge without  
28 court intervention, the Designating Party shall file and serve a motion to retain

1 confidentiality under Civil Local Rule 7 (and in compliance with Civil Local Rule  
2 79-5, if applicable) within 21 days of the initial notice of challenge or within 14 days  
3 of the parties agreeing that the meet and confer process will not resolve their dispute,  
4 whichever is earlier. Each such motion must be accompanied by a competent  
5 declaration affirming that the movant has complied with the meet and confer  
6 requirements imposed in the preceding paragraph. Failure by the Designating Party  
7 to make such a motion including the required declaration within 21 days (or 14 days,  
8 if applicable) shall automatically waive the confidentiality designation for each  
9 challenged designation. In addition, the Challenging Party may file a motion  
10 challenging a confidentiality designation at any time if there is good cause for doing  
11 so, including a challenge to the designation of a deposition transcript or any portions  
12 thereof. Any motion brought pursuant to this provision must be accompanied by a  
13 competent declaration affirming that the movant has complied with the meet and  
14 confer requirements imposed by the preceding paragraph.

15 The burden of persuasion in any such challenge proceeding shall be on the  
16 Designating Party. Frivolous challenges and those made for an improper purpose  
17 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
18 expose the Challenging Party to sanctions. Unless the Designating Party has waived  
19 the confidentiality designation by failing to file a motion to retain confidentiality as  
20 described above, all parties shall continue to afford the material in question the level  
21 of protection to which it is entitled under the Producing Party's designation until the  
22 court rules on the challenge.

23 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

24 **7.1 Basic Principles.** A Receiving Party may use Protected Material that is  
25 disclosed or produced by another Party or by a Non-Party in connection with this  
26 case only for prosecuting, defending, or attempting to settle this litigation. Such  
27 Protected Material may be disclosed only to the categories of persons and under the  
28 conditions described in this Order. When the litigation has been terminated, a

1 Receiving Party must comply with the provisions of section 15 below (FINAL  
2 DISPOSITION). Protected Material must be stored and maintained by a Receiving  
3 Party at a location and in a secure manner that ensures that access is limited to the  
4 persons authorized under this Order.

5       7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless  
6 otherwise ordered by the court or permitted in writing by the Designating Party, a  
7 Receiving Party may disclose any information or item designated  
8 “CONFIDENTIAL” only to:

9           (a) The Receiving Party’s Outside Counsel of Record in this action,  
10 as well as employees of said Outside Counsel of Record to whom it is reasonably  
11 necessary to disclose the information for this litigation and who have signed the  
12 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit  
13 A;

14           (b) The officers, directors, and employees (including House Counsel)  
15 of the Receiving Party to whom disclosure is reasonably necessary for this litigation  
16 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit  
17 A);

18           (c) Experts (as defined in this Order) of the Receiving Party to whom  
19 disclosure is reasonably necessary for this litigation and who have signed the  
20 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

21           (d) The court, including mediation and arbitral services, and its  
22 personnel;

23           (e) Court reporters and their staff, professional jury or trial  
24 consultants, and Professional Vendors to whom disclosure is reasonably necessary  
25 for this litigation and who have signed the “Acknowledgment and Agreement to Be  
26 Bound” (Exhibit A);

27           (f) During their depositions, witnesses in the action to whom  
28 disclosure is reasonably necessary and who have signed the “Acknowledgment and

1       Agreement to Be Bound" (Exhibit A), unless otherwise agreed by the Designating  
 2       Party or ordered by the court. Pages of transcribed deposition testimony or exhibits  
 3       to depositions that reveal Protected Material must be separately bound by the court  
 4       reporter and may not be disclosed to anyone except as permitted under this  
 5       Stipulated Protective Order.

6                 (g)      The author or recipient of a document containing the information  
 7       or a custodian or other person who otherwise possessed or knew the information.

8                 7.3     Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
 9       ONLY" Information or Items. Unless otherwise ordered by the court or permitted in  
 10      writing by the Designating Party, a Receiving Party may disclose any information or  
 11      item designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" only  
 12      to:

13                 (a)     The Receiving Party's Outside Counsel of Record in this action,  
 14       as well as employees of said Outside Counsel of Record to whom it is reasonably  
 15       necessary to disclose the information for this litigation and who have signed the  
 16       "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit  
 17       A;

18                 (b)     Experts of the Receiving Party (1) to whom disclosure is  
 19       reasonably necessary for this litigation, (2) who have signed the "Acknowledgment  
 20       and Agreement to Be Bound" (Exhibit A), and (3) as to whom the procedures set  
 21       forth in paragraph 7.4(a)(2), below, have been followed];

22                 (c)     The court, including any mediation or arbitration service, and its  
 23       personnel;

24                 (d)     Court reporters and their staff, professional jury or trial  
 25       consultants, and Professional Vendors to whom disclosure is reasonably necessary  
 26       for this litigation and who have signed the "Acknowledgment and Agreement to Be  
 27       Bound" (Exhibit A); and

28       ///

(e) The author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

#### 7.4 Procedures for Approving or Objecting to Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

(a)(1) Unless otherwise ordered by the court or agreed to in writing by the Designating Party, a Party that seeks to disclose to an Expert (as defined in this Order) any information or item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to paragraph 7.3(b) first must make a written request to the Designating Party that (1) identifies the general categories of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information that the Receiving Party seeks permission to disclose to the Expert, (2) sets forth the full name of the Expert and the city and state of his or her primary residence, (3) attaches a copy of the Expert’s current resume, (4) identifies the Expert’s current employer(s), (5) identifies each person or entity from whom the Expert has received compensation or funding for work in his or her areas of expertise or to whom the expert has provided professional services, including in connection with a litigation, at any time during the preceding five years, and (6) identifies (by name and number of the case, filing date, and location of court) any litigation in connection with which the Expert has offered expert testimony, including through a declaration, report, or testimony at a deposition or trial, during the preceding five years.

(b) A Party that makes a request and provides the information specified in the preceding respective paragraphs may disclose the subject Protected Material to the identified Expert unless, within 14 days of delivering the request, the Party receives a written objection from the Designating Party. Any such objection must set forth in detail the grounds on which it is based.

(c) A Party that receives a timely written objection must meet and confer with the Designating Party (through direct voice to voice dialogue) to try to

1 resolve the matter by agreement within seven days of the written objection. If no  
 2 agreement is reached, the Party seeking to make the disclosure to the Expert may file  
 3 a motion as provided in Civil Local Rule 7 (and in compliance with Civil Local Rule  
 4 79-5, if applicable) seeking permission from the court to do so. Any such motion  
 5 must describe the circumstances with specificity, set forth in detail the reasons why  
 6 the disclosure to the Expert is reasonably necessary, assess the risk of harm that the  
 7 disclosure would entail, and suggest any additional means that could be used to  
 8 reduce that risk. In addition, any such motion must be accompanied by a competent  
 9 declaration describing the parties' efforts to resolve the matter by agreement (i.e., the  
 10 extent and the content of the meet and confer discussions) and setting forth the  
 11 reasons advanced by the Designating Party for its refusal to approve the disclosure.  
 12 In any such proceeding, the Party opposing disclosure to the Expert shall bear the  
 13 burden of proving that the risk of harm that the disclosure would entail (under the  
 14 safeguards proposed) outweighs the Receiving Party's need to disclose the Protected  
 15 Material to its Expert.

16       10. **PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**  
          **OTHER LITIGATION**

17           If a Party is served with a subpoena or a court order issued in other  
 18 litigation that compels disclosure of any information or items designated in this  
 19 action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'  
 20 EYES ONLY that Party must:

21           (a) Promptly notify in writing the Designating Party. Such  
 22 notification shall include a copy of the subpoena or court order;

23           (b) Promptly notify in writing the party who caused the subpoena or  
 24 order to issue in the other litigation that some or all of the material covered by the  
 25 subpoena or order is subject to this Protective Order. Such notification shall include  
 26 a copy of this Stipulated Protective Order; and

(c) Cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party’s permission. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material, and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful directive from another court.

11. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE  
PRODUCED IN THIS LITIGATION

(a) The terms of this Order are applicable to information produced by a Non-Party in this action and designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

1. Promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

2. Promptly provide the Non-Party with a copy of the Stipulated Protective Order in this litigation, the relevant discovery request(s), and a

1 reasonably specific description of the information requested; and

2                   3. Make the information requested available for inspection by  
3 the Non-Party.

4                   (c) If the Non-Party fails to object or seek a protective order from  
5 this court within 14 days of receiving the notice and accompanying information, the  
6 Receiving Party may produce the Non-Party's confidential information responsive to  
7 the discovery request. If the Non-Party timely seeks a protective order, the  
8 Receiving Party shall not produce any information in its possession or control that is  
9 subject to the confidentiality agreement with the Non-Party before a determination  
10 by the court. Absent a court order to the contrary, the Non-Party shall bear the  
11 burden and expense of seeking protection in this court of its Protected Material.

12                  12. **UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

13                  If a Receiving Party learns that, by inadvertence or otherwise, it has  
14 disclosed Protected Material to any person or in any circumstance not authorized  
15 under this Stipulated Protective Order, the Receiving Party must immediately (a)  
16 notify in writing the Designating Party of the unauthorized disclosures, (b) use its  
17 best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform  
18 the person or persons to whom unauthorized disclosures were made of all the terms  
19 of this Order, and (d) request such person or persons to execute the  
20 "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

21                  13. **INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
22                  PROTECTED MATERIAL**

23                  When a Producing Party gives notice to Receiving Parties that certain  
24 inadvertently produced material is subject to a claim of privilege or other protection,  
25 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
26 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure  
27 may be established in an e-discovery order that provides for production without prior  
28 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the

1 parties reach an agreement on the effect of disclosure of a communication or  
2 information covered by the attorney-client privilege or work product protection, the  
3 parties may incorporate their agreement in the stipulated protective order submitted  
4 to the court.

5 **14. MISCELLANEOUS**

6       **14.1 Right to Further Relief**. Nothing in this Order abridges the right of any  
7 person to seek its modification by the court in the future.

8       **14.2 Right to Assert Other Objections**. By stipulating to the entry of this  
9 Protective Order, no Party waives any right it otherwise would have to object to  
10 disclosing or producing any information or item on any ground not addressed in this  
11 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
12 ground to use in evidence of any of the material covered by this Protective Order.

13       **14.3 Filing Protected Material**. Without written permission from the  
14 Designating Party or a court order secured after appropriate notice to all interested  
15 persons, a Party may not file in the public record in this action any Protected  
16 Material. A Party that seeks to file under seal any Protected Material must comply  
17 with Civil Local Rule 79-5. Protected Material may only be filed under seal  
18 pursuant to a court order authorizing the sealing of the specific Protected Material at  
19 issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a  
20 request establishing that the Protected Material at issue is privileged, protectable as a  
21 trade secret, or otherwise entitled to protection under the law. If a Receiving Party's  
22 request to file Protected Material under seal pursuant to Civil Local Rule 79-5 is  
23 denied by the court, then the Receiving Party may file the Protected Material in the  
24 public record pursuant to court rules unless otherwise instructed by the court.

25 **15. FINAL DISPOSITION**

26       Within 60 days after the final disposition of this action, as defined in  
27 paragraph 4, each Receiving Party must return all Protected Material to the  
28 Producing Party or destroy such material. As used in this subdivision, "all Protected

Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60-day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD HEREIN.

Dated: October 19, 2015

Respectfully submitted,

By: /s/ Dhaiyat H. Shah  
Dhaiyat H. Shah

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Attorneys for Defendant and Counter-  
Defendant  
**PETER RODGERS ORGANIZATION,  
LTD.**

1 Dated: October 19, 2015

Respectfully submitted,

2 By: /s/ Samuel J. Maselli  
3 Samuel J. Maselli

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11 Attorneys for Defendant and Counter-  
Complainant ADRISE INC.

**CERTIFICATION OF CONCURRENCE**

I, Dhaivat H. Shah, attest that Samuel Maselli has concurred in the filing of this document.

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/s/ Dhaivat H. Shah, Esq.  
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PURSUANT TO STIPULATION, IT IS SO ORDERED.

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*Patrick J. Walsh*  
United States Magistrate Judge

DATED: October 21, 2015

EXHIBIT A

## ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [full name], of \_\_\_\_\_ [full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Northern District of California on \_\_\_\_\_ in the case of *Peter Rodgers Organization, Ltd. v. adRise Inc.*, U.S. District Court for the Central District of California Case No. 2:15-cv-04381-PSG. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order. I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby designate and appoint \_\_\_\_\_ [full name] of \_\_\_\_\_ [address/telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date:

City and State where sworn and signed:

Printed name:

Signature: \_\_\_\_\_